

01-ASD-109 (GT)

IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

SERIAL NO.: 09/963,815
FILED: September 26, 2001
FOR: CONTROLLING FUEL TANK VAPOR VENTING DURING
REFUELING
APPLICANT: ROBERT P. BENJEY
ART UNIT: 3753
EXAMINER: JOHN A. RIVELL
CONFIRMATION #: 1163

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REPLY BRIEF OF APPELLANT UNDER 37 CFR 1.193

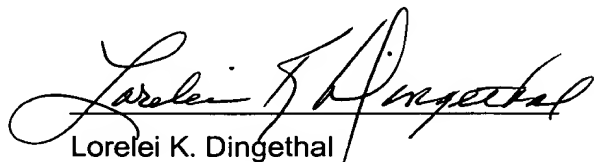
The Examiner in his answer filed May 27, 2004 has referred to the action of the nozzle seal 212 in FIG. 8 of the Allison '497 reference as precluding venting of fuel vapor to the atmosphere.

Applicant submits that in column 8 at lines 55 through 60 the Allison '497 reference clearly teaches that a vacuum relief valve is required to permit air to be drawn into the chamber 89 from exterior chamber 92 during the refueling process. The purpose of the vacuum relief valve 102 of the Allison patent is to permit air to be drawn into the filler tube.

The purpose of the liquid seal in Applicant's structure in combination with the mechanical seal is to prevent or minimize the entrainment of air into the filler tube during refueling. If air is entrained into the filler tube, the air pushes the vapor into the canister line and this places a load on the canister. Applicant's device prevents entrainment of

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:
Mail Stop Appeal Brief – Patents, Commissioner for Patents, P.O. Box 1450, Alexandria,
VA 22313-1450 on June 4, 2004


Lorelei K. Dingethal

Appellant's Reply Brief for 01-ASD-109 (GT)

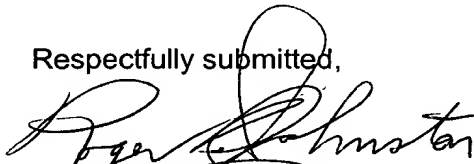
air and minimizes the loading of the canister during refueling.

The Examiner's proposed combination of the prior art of FIG. 5 of the present application with the structure of FIG. 8 of Allison would still permit air to be drawn into the filler tube through the vacuum relief valve 102 of Allison.

The Examiner's rejection is predicated upon reworking the structure of the Allison '497 patent to remove the vacuum relief valve 102 and prevent the entrainment of air. This reworking would teach away from or contravene the purpose of the Allison structure. Accordingly, it is submitted that the Examiner's proposed combination, being predicated upon reworking the reference in a manner teaching away from the reference is arbitrary and not within the statutory meaning of "obvious".

Accordingly, it is submitted that the Examiner's rejection is improper and it is requested that the Board overrule the Examiner's rejection.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Roger A. Johnston", is written over the typed name and registration number.

Roger A. Johnston
Registration No. 25,880
Attorney for Applicant

Eaton Corporation
Eaton Center
1111 Superior Avenue
Cleveland, Ohio 44114
(216) 523-4132